

REMARKS

Entry of the amendment is requested, whereby claims 12-17 and 19 will be pending. Part of claim 18 has been incorporated into claim 12, resulting in the cancellation of claim 18. Non-elected claims 20 and 21 are cancelled.

The specification has been revised and amended wherever appropriate. The extent of amendments requires submission of a new specification.

Claim 15 has been amended to address objections thereto.

As claim 18 has been incorporated into the single, pending, independent claim, any rejection which does not include this claim is moot. As such, the rejection of claims 12-15 and 19 as allegedly being anticipated by Bialer, et al, is moot.

Applicants shall now address the combination of Bialer, et al, with Thomas, Veterinary Clinics of North America Small Animal Practice 30:183-206 (2000). The rejection is traversed.

“Idiopathic epilepsy” is defined in the specification, at the last line of page 1, to page 2..

“(W)hen no underlying causes can be defined by clinical and pathological examination”

The Examiner agrees that Bialer does not teach idiopathic epilepsy. In fact, what Bialer does teach is treatment of dogs which had received the convulsant, PTZ previously. Please see page 12, right hand column. Since the cause of the epilepsy was known, the epilepsy in fact cannot be idiopathic. Nothing in Bialer discusses or suggests correlation between what is taught, and idiopathic epilepsy.

Nor is the “PTZ” model predictive of therapeutic efficacy in animals generally, page 3, line 4- page 4, line 20, explain this in great detail. Indeed, Thomas explains, at page 184, “not all seizures are caused by epilepsy.”

The Examiner cites to Thomas as defining idiopathic epilepsy. Thomas does, in fact teach drugs such as phenobarbital as being effective against idiopathic epilepsy.

The Examiner is not correct, however, in stating that Thomas “meets the limitations of claims 16-18.” Claims 16-18 all require “AWD 131-138” as the primary drug, and one finds no such teaching within the four corners of Thomas.

Indeed, the fact that Thomas takes pains to distinguish between symptomatic and idiopathic epilepsy renders the Examiner’s position even more untenable, because Bialer clearly is NOT concerned with idiopathic epilepsy. There is a clear, unarguable cause for the conditions in Bialer, which Thomas clearly feels are distinguishable from idiopathic epilepsy.

The fact is, there is no suggestion within these references permitting their combination.

Bealer teaches that AWD 131-138 is efficacies in treating convulsions, not necessarily part of epilepsy, let alone idiopathic epilepsy. Nor do the two references teach the same composition, as suggested at page 5. Again, applicant’s ask where AWD 131-138 is taught in Thomas? Further, they ask where idiopathic epilepsy is taught in Bialer?

It is submitted that, rather than a proper combination suggested by the prior art, the use of Biales plus Thomas is based upon improper, hindsight reconstruction and the rejection cannot be maintained.

Withdrawal of the rejections, and allowance of claims 12-17 and 19 is believed proper and is urged.

If any additional fees are due, authorization is given to charge our Deposit Account No. 50-0624, under Order No. NY-HUBR 1230-US (10312533) from which the undersigned is authorized to draw.

Dated: 7/12/07

Respectfully submitted,

By 

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